

# SENATE BILL No. 404

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 13-11-2-191; IC 13-18-10.5-1.4.

**Synopsis:** Manure structure approval disclosure requirements. Provides that an application to the department of environmental management for approval of the construction or expansion of a satellite manure storage structure must include a disclosure statement providing certain information about each "responsible party" (each individual who is an applicant or an officer, director, or senior management official of an entity that is an applicant) about whom there has been an allegation of an act or omission constituting a material violation of state, federal, or foreign environmental law that presented a substantial endangerment to human health or the environment.

**Effective:** July 1, 2015.

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January 12, 2015, read first time and referred to Committee on Environmental Affairs.

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First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## SENATE BILL No. 404

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1       SECTION 1. IC 13-11-2-191, AS AMENDED BY P.L.127-2009,  
2       SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2015]: Sec. 191. (a) "Responsible party", for purposes of  
4       IC 13-18-10 **and IC 13-18-10.5**, means any of the following:  
5       (1) An applicant.  
6       (2) An officer, a corporation director, or a senior management  
7       official of any of the following that is an applicant:  
8       (A) A corporation.  
9       (B) A partnership.  
10       (C) A limited liability company.  
11       (D) A business association.  
12       (b) "Responsible party", for purposes of IC 13-19-4, means:  
13       (1) an officer, a corporation director, or a senior management  
14       official of a corporation, partnership, limited liability company, or  
15       business association that is an applicant; or  
16       (2) an individual, a corporation, a limited liability company, a



partnership, or a business association that owns, directly or indirectly, at least a twenty percent (20%) interest in the applicant.

(c) "Responsible party", for purposes of IC 13-20-6, means:

(1) an officer, a corporation director, or a senior management official of a corporation, partnership, limited liability company, or business association that is an operator; or

(2) an individual, a corporation, a limited liability company, a partnership, or a business association that owns, directly or indirectly, at least a twenty percent (20%) interest in the operator.

(d) "Responsible party", for purposes of IC 13-24-2, has the meaning set forth in Section 1001 of the federal Oil Pollution Act of 1990 (33 U.S.C. 2701).

(e) "Responsible party", for purposes of IC 13-25-6, means a person:

(1) who:

(A) owns hazardous material that is involved in a hazardous materials emergency; or

(B) owns a container or owns or operates a vehicle that contains hazardous material that is involved in a hazardous materials emergency; and

(2) who:

(A) causes; or

(B) substantially contributes to the cause of;  
the hazardous materials emergency.

SECTION 2. IC 13-18-10.5-1.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 1.4. (a) Subject to subsection (b), an application for approval under section 1 of this chapter must include, for each responsible party, a disclosure statement described in subsection (c) if either or both of the following apply:**

**(1) State or federal officials have at any time alleged that the responsible party committed an act or omission that constituted a material violation of state or federal environmental law.**

**(2) Foreign officials have at any time alleged that the responsible party committed an act or omission that:**

**(A) constituted a material violation of a foreign environmental law; and**

**(B) would have constituted a material violation of state or federal environmental law if the act or omission had occurred in the United States.**

**(b) An application must include a disclosure statement for a**



1 responsible party under subsection (a) only if the act or omission  
 2 referred to in subsection (a)(1) or (a)(2) that the responsible party  
 3 is alleged to have committed presented a substantial endangerment  
 4 to human health or the environment.

5 (c) If an application must include a disclosure statement for a  
 6 responsible party under subsections (a) and (b), the responsible  
 7 party must make reasonable efforts to ensure that the disclosure  
 8 statement provides, completely and accurately, the following:

9 (1) The name and business address of the responsible party.

10 (2) A description of the responsible party's experience in  
 11 managing the environmental aspects of a satellite manure  
 12 storage structure of the type to be constructed or expanded.

13 (3) A description of all pending administrative, civil, or  
 14 criminal enforcement actions filed in the United States against  
 15 the responsible party alleging an act or omission that:

16 (A) constituted a material violation of state or federal  
 17 environmental law; and

18 (B) presented a substantial endangerment to human health  
 19 or the environment.

20 (4) A description of all pending administrative, civil, or  
 21 criminal enforcement actions filed in a foreign country  
 22 against the responsible party alleging an act or omission that:

23 (A) constituted a material violation of foreign  
 24 environmental law;

25 (B) would have constituted a material violation of state or  
 26 federal environmental law if the act or omission on which  
 27 the action was based had occurred in the United States;  
 28 and

29 (C) presented a substantial endangerment to human health  
 30 or the environment.

31 (5) A description of all finally adjudicated or settled  
 32 administrative, civil, or criminal enforcement actions in the  
 33 United States resolved against the responsible party within  
 34 the five (5) years immediately preceding the date of the  
 35 application involving an act or omission that:

36 (A) constituted a material violation of federal or state  
 37 environmental law; and

38 (B) presented a substantial endangerment to human health  
 39 or the environment.

40 (6) A description of all finally adjudicated or settled  
 41 administrative, civil, or criminal enforcement actions in a  
 42 foreign country resolved against the responsible party within



1 the five (5) years immediately preceding the date of the  
2 application involving an act or omission that:

3 (A) constituted a material violation of foreign  
4 environmental law;

5 (B) would have constituted a material violation of state or  
6 federal environmental law if the act or omission on which  
7 the action was based had occurred in the United States;  
8 and

9 (C) presented a substantial endangerment to human health  
10 or the environment.

11 (7) Information identifying:

12 (A) all state, federal, or foreign environmental permit  
13 applications submitted by the responsible party that were  
14 denied; and

15 (B) all state, federal, or foreign environmental permits held  
16 by the responsible party that were revoked.

17 (d) A disclosure statement submitted under this section:

18 (1) must be executed under oath or affirmation; and

19 (2) is subject to the penalty for perjury under IC 35-44.1-2-1.

20 (e) The department may investigate and verify the information  
21 set forth in a disclosure statement submitted under this section.

